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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 000218

SIPDIS

AF/S FOR B. WALCH
DRL FOR N. WILETT
ADDIS ABABA FOR USAU
ADDIS ABABA FOR ACSS
STATE PASS TO USAID FOR J. HARMON AND L. DOBBINS
STATE PASS TO NSC FOR SENIOR AFRICA DIRECTOR MICHELLE GAVIN

E.O. 12958: DECL: 03/12/2019
TAGS: [PGOV](#) [PREL](#) [PHUM](#) [ASEC](#) [ZI](#)
SUBJECT: MDC'S BENNETT RELEASED ON BAIL; STATE CONSIDERS
ARRESTING HIS LAWYER

Classified By: Ambassador James D. McGee for reason 1.4 (d)

SUMMARY

11. (C) Jailed Deputy Minister of Agriculture-designate Roy Bennett was released from a Mutare jail on March 12 after the Supreme Court Chief Justice upheld a previous, lower court decision to grant Bennett bail. The magistrate who originally ordered Benntt's release after a High Court order granting bil, and was consequently arrested on March 5 for abuse of office, was released on March 7. Bennett's lawyer has been informed that she may be arrested for contempt of court. END SUMMARY.

Roy Freed as State Runs Out of Appeals

12. (SBU) On March 12, Deputy Minister of Agriculture-designate and MDC treasurer Roy Bennett was released from jail following the determination on March 11 by Zimbabwean Chief Justice Godfrey Chidyausiku to uphold a lower court decision granting Bennett bail. Bennett still faces charges of terrorism, insurgency, sabotage or banditry, but was released from a Mutare prison at noon on March 12 after posting US\$5,000 bail, surrendering his travel documents and property deed, and agreeing to appear at a Harare police station three times a week. According to Bennett's lawyer, Beatrice Mtetwa, while Justice Chidyausiku made the terms of Bennett's bail stricter, Bennett was able to meet the conditions.

13. (SBU) The appeal to the Supreme Court to reconsider the February 24 decision by High Court Judge Tedious Karwi to grant Bennett bail was the last legal opportunity available to State prosecutors to keep Bennett locked up. Chidyausiku deliberated for a full day after hearing arguments on March 10 before making his ruling on March 11. Bennett's

incarceration had already been extended by Supreme Court Judge Paddington Garwe on March 4 when he granted the State permission to appeal the High Court ruling. Bennett has been in jail since his arrest on February 13.

Magistrate's Office Fearful to Process Release

14. (SBU) On March 5, Livingstone Chipadza, the Mutare magistrate who ordered his clerk to accept bail for Bennett, was himself arrested by the police on charges of criminally abusing his office. Police spokesperson Wayne Bvudzijena said that Chipadza signed a warrant of liberation knowing that the Supreme Court would review the High Court's bail decision. Chipadza has argued that he was merely executing the March 4 High Court ruling to grant Bennett bail. Chipadza has been released on bail and remanded for a hearing on March 17.

15. (C) Mtetwa told poloff that Chipadza's replacement was very hesitant to accept bail and release Bennett after Chidyausiku's decision, and required multiple assurances by the office of Chief Magistrate Mandeya before processing his Qthe office of Chief Magistrate Mandeya before processing his warrant of liberation.

Bennett's Lawyer Being Targeted

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16. (C) Disturbingly, Mtetwa informed us that she also has become a target of the State. On March 11, she received a warning from a personal contact at police headquarters that the Attorney General's office was considering ordering her arrest this weekend on charges of contempt of court. She called two other contacts within the police for confirmation. One refused to comment while the other confirmed that the threat was real. Mtetwa also mentioned that she was followed several nights ago by two unmarked Isuzu 4x4 trucks, which she suspected may have been driven by Central Intelligence Organization officers. She plans on avoiding her home this weekend.

COMMENT

17. (C) The Bennett case is indicative of the degree to which Zimbabwe's legal process has been abused by ZANU-PF loyalists. First, a Mutare magistrate was arrested for attempting to execute a High Court decision granting Bennett bail. This was followed by Attorney General Tomana --a vocal ZANU-PF supporter-- appealing what appeared to be the reasoned bail decision by the High Court judge for the primary purpose of extending Bennett's incarceration. While we are encouraged that Bennett's release was eventually secured, reports that his lawyer is now under threat of arrest demonstrates that hard-liners aren't giving up. END COMMENT.

MCGEE